

United States Senate

WASHINGTON, DC 20510

May 3, 2023

The Honorable Alejandro Mayorkas
Secretary
United States Department of Homeland Security
Washington, D.C. 20016

Dear Secretary Mayorkas:

We write to urge you to take all steps necessary to ensure the new Customs and Border Protection (CBP) Shelter and Services Program meets the needs of Arizona communities that are struggling to handle the ongoing border crisis. In the Fiscal Year 2023 Consolidated Appropriations Act, we worked to establish the new Shelter and Services Program to provide more flexibility and support for border communities. As the end of Title 42 approaches, it is imperative that the Department of Homeland Security (Department) designs this program in a way that keeps Arizona communities safe and secure, prevents street releases of migrants processed by the Department, and ensures migrants are treated fairly and humanely. We strongly urge you to ensure this program works for border communities and considers on-the-ground realities.

For years across multiple administrations, Arizona communities have been paying the price for Washington's failures on the border, and have been using their own limited resources to help manage migration influxes. Last week, Congress heard about these challenges directly from Arizona border community leaders. While Pima County, an Arizona county bordering Mexico, should be able to focus on the upcoming fire season, their emergency management office must work with CBP on coordinated efforts to connect migrants with nongovernmental organizations every day in Tucson. The City of Yuma has already had to declare a state of emergency twice since 2019, due to the unmanageable number of migrants released at the border without local coordination or the resources to assist their onward travel. And late last year, we heard from the City of San Luis, a small community of roughly 37,000 residents on the Arizona-Mexico border, about three of their five ambulances needing to be used to respond to calls for migrants in need. This left just two ambulances responding to the local community on any given night. These communities have been managing a crisis for far too long.

To help ease the strain on Arizona communities, Congress provided \$800 million in the Fiscal Year 2023 appropriations bill to create a new CBP Shelter and Services Program to help cover the costs incurred by local governmental agencies and non-governmental organizations in response to this influx. It is of utmost importance that this funding is disbursed in a timely manner to our Southwest border communities.

We understand that the Department is developing this program, including the application process, eligible costs, and disbursement process. For this program to function, the Department must include the following elements:

1. **Prioritize Funding for Border Communities.** Congress intended this funding to support two main goals: ease the burden on local communities and help relieve CBP facilities. In line with this intent, the Department must work cooperatively with local governmental agencies and non-governmental organizations (NGOs) operating in border states and ensure their operations are prioritized for funding, as they are on the frontlines of reducing overcrowding at CBP facilities.
2. **Advance Funding.** It can take months for local governmental agencies and NGOs to receive reimbursements from the federal government for costs incurred while managing migrants at and near the border. For example, the Good Neighbor Settlement House in Brownsville, Texas says they are still waiting on reimbursements from April 2022. Under the preexisting Emergency Food and Shelter Program (EFSP), these delays nearly caused providers to shut down their operations. Advance funding would continue to allow organizations to plan ahead and ensure there is no lapse in services, and avoid devastating effects on local communities.
3. **Fiscal Agents.** Under the current EFSP, the fiscal agent model was established to provide vital support to service providers, helping them navigate the federal government's funding process and allowing NGO staff to focus on providing services. Arizona's fiscal agents provide guidance to NGOs to ensure they abide by program guidelines, helping them adequately document and record expenses for reimbursement and ensuring that costs are reimbursable, and serving as a regional center to connect NGOs with related missions and help fill service gaps. Fiscal agents operate as a pass-through entity for the NGOs providing services, although some fiscal agents may provide some services as well (such as transportation), ensuring federal compliance and accountability can be maintained while simultaneously speeding up timely payments to NGOs. While the Department considers adding additional flexibilities under the Shelter and Services Program, the fiscal agent model has served Arizona communities well and must be retained as an option.
4. **Reasonable Documentation Requirements.** The Department must set reasonable documentation requirements that don't curtail the efficiency of this program. For example, if NGOs are required to provide alien numbers (A-numbers) for each migrant they receive in their care, then the Department must contemporaneously provide the A-number for each migrant transported into the NGO's care. Further, certain NGOs do not come into direct contact with migrants, and instead provide a specific primary service – not unlike a subcontractor. The Department must avoid setting unrealistic requirements, which would only complicate the process and negatively affect border communities.
5. **Sufficient Funding for Capital Improvements.** Within the \$800 million funding amount, Congress included up to \$50 million for the expansion or modification of shelter facilities. DHS must allow NGOs to access this funding in amounts that would allow them to make meaningful expansions to their shelter capacity or make the modifications necessary to increase capacity.
6. **Funding for Medical Triage.** Many migrants who arrive at a shelter have acute medical needs, and if they are not treated at or by the NGO, they must go out into the community

for care at local clinics and hospitals. This forces local communities and medical facilities to shoulder the burden of uncompensated medical expenses. We strongly urge that the Shelter and Services Program give NGOs the flexibility to conduct medical triage to help migrants with acute medical concerns, including screening for acute medical needs and other medical conditions.

- 7. Flexibility for Non-Congregate Shelters.** Even with the COVID-19 national emergency ending, there is still a need for non-congregate shelter to isolate communicable diseases, such as chickenpox, and prevent outbreaks in congregate shelter settings and in the broader community.

- 8. Considerations for Local Governmental Agencies.** The Department must carefully consider the structure of the Shelter and Services Program to ensure that local governmental agencies providing humanitarian services or serving as fiscal agents in border states are not disadvantaged by the new program's criteria. Often, local governmental agencies in border communities have stepped up to provide coordinated services to avoid the more serious consequences that come with street releases into communities. They have been able to do so only because of the federal funds available to cover those expenses, and without federal funding, local budgets cannot sustain these services. The Department must ensure that the Shelter and Services Program application and funding model takes into account the significant differences between local government budgets and the operating budgets of NGOs.

Additionally, DHS must provide Congress with timely information about the plans for the Shelter and Services Program so that we may work together to ensure this program works as Congress intended. We expect that you will provide our offices with the details about this program as soon as possible and no later than Thursday, May 11, 2023.

Sincerely,



Kyrsten Sinema
U.S. Senator



Mark Kelly
U.S. Senator

CC: Troy Miller, Acting Commissioner, U.S. Customs and Border Protection
Deanne Criswell, Administrator, Federal Emergency Management Agency